

REMARKS/ARGUMENTS

Prior to entry of this Amendment, the application included claims 1-25. Claims 1, 3, 16, and 21 have been amended. No claims have been canceled or added. Hence, after entry of this Amendment, claims 1-25 stand pending for examination. Support for the amendments can be found at pg. 9, lines 8-15 of the Applicants' specification. No new matter is added by the amendments. The amendments have been made to expedite prosecution.

Applicants believe these amendments place the application in condition for allowance, and respectfully request that the amendments be entered and the application as amended be reconsidered.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-25 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner asserts that "the phrase 'may be' renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention." (Office Action dtd. June 29, 2011, p. 2).

As it is used in the claims, the phrase "may be" is not indefinite because no claim limitations depend on it in a conditional sense. However, in order to expedite prosecution, claims 1, 16, and 21 have been amended to overcome this rejection. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Rejections under 35 U.S.C. §103

Claims 1-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,648,222 to McDonald, et al. ("McDonald") in view of U.S. Patent No. 6,615,190 to Slater ("Slater"), further in view of FoodReview's All Food Stamp Benefits to be Issued Electronically ("FoodReview").

Claims 1-25

Applicants will direct the remarks to claim 1, although the remarks apply equally to claims 16 and 21. Claim 1 has been amended to recite “wherein upon expiration of the term, a default condition is applied to convert the second amount of benefits monetary value to a value stored in an unrestricted cash purse on the at least one smart card.” Claims 16 and 21 contain similar recitations. Essentially, this recitation allows a benefit to expire and thus restrict the patron’s use of that benefit, while simultaneously allowing the patron to maintain the monetary value of that benefit by storing the value in an unrestricted cash purse on the card.

In rejecting this recitation, the Examiner has taken official notice “that it is old and well known in the art to convert benefits to stored value.” (Office Action dtd. June 29, 2011, p. 6). Pursuant to MPEP 2144.03, Applicants challenge the Examiner’s taking of Official Notice. Unless a specific piece of prior art is cited to meet this claim limitation, Applicants cannot determine if the Examiner has satisfied the burden of establishing obviousness. Applicants are unable to find any evidence that this recitation is “old and well-known in the art” and respectfully request that the Examiner provide the reasoning for this conclusion in the form of documentary evidence. (MPEP § 2144.03(B)). Common practice seems to universally support the opposite conclusion, namely that when a card-based benefit expires the cash value of the benefit it forfeited by the patron. For instance, the cited FoodReview reference explicitly prevents the expiring food stamp benefit to be converted to any form of cash equivalent. (*FoodReview*, p. 4). Therefore, Applicants respectfully request that the rejection based on official notice be withdrawn.

After withdrawal of the official notice, Applicants submit that none of the cited references teach or suggest the recitations of claims 1, 16 and 21. Therefore, claims 1, 16, and 21 are allowable over the cited references. Claims 2-15, 17-20, and 22-25 depend from claims 1, 16, and 21 and are likewise allowable for at least the same reasons.

Claim 3

Claim 3 has been amended to recite a “system for distributing benefits . . . comprising a smart card read/write device connected to the terminal for writing the at least a

portion of the benefits monetary value to the at least one smart card; wherein at least a second portion of the benefits monetary value remains stored on the central computer. In other words, only a part of the funds assigned to a benefit, such as parking fees or train fares, are transferred to the card. The remaining funds assigned to the benefit remain on the central computer.

None of the cited references teach or suggest this recitation. McDonald and Slater both discuss only storing benefit information on a central computer, not on a card. (*McDonald*, col. 14, ll. 1-51; *Slater*, col. 3, ll. 27-34). FoodReview only discusses transferring the entirety of a benefit to a card from a central computer. (*FoodReview*, p. 1). None of the cited references discuss writing a portion of the benefits monetary value to a smart card with a portion of the benefits monetary value remaining stored on the central computer. Therefore, claim 3 is allowable over the cited references for at least this reason.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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